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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No. 2013-476

13 **MERIN JIBU KANIAMKULAM**

14 **STATEMENT OF ISSUES**

Respondent.

15 Complainant alleges:

16 **PARTIES**

17 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely  
18 in her official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),  
19 Department of Consumer Affairs.

20 2. On or about August 9, 2011, the Board received an application for a registered nurse  
21 license from Merin Jibu Kaniamkulam ("Respondent"). On or about August 4, 2011, Respondent  
22 certified under penalty of perjury to the truthfulness of all statements, answers, and  
23 representations in the application. The Board denied the application on September 19, 2011.

24 **STATUTORY PROVISIONS**

25 3. Business and Professions Code ("Code") section 2736 provides, in pertinent part, that  
26 the Board may deny a license when it finds that the applicant has committed any acts constituting  
27 grounds for denial of licensure under section 480 of that Code.  
28

1 4. Code section 480 states, in pertinent part:

2 (a) A board may deny a license regulated by this code on the grounds that  
3 the applicant has one of the following:

4 . . . .

5 (2) Done any act involving dishonesty, fraud or deceit with the intent to  
6 substantially benefit himself or another, or substantially injure another . . .

7 5. Code section 123 states, in pertinent part:

8 It is a misdemeanor for any person to engage in any conduct which  
9 subverts or attempts to subvert any licensing examination or the administration of an  
10 examination . . .

11 6. Code section 496 states that "[a] board may deny, suspend, revoke, or otherwise  
12 restrict a license on the ground that an applicant or licensee has violated Section 123 pertaining to  
13 the subversion of licensing examinations."

#### 14 FIRST CAUSE FOR DENIAL

##### 15 (Subversion of Licensing Examination)

16 7. On or about May 24, 2011, Respondent was scheduled to take the NCLEX-RN®  
17 examination at the Pearson Professional Center located in Oakland, California. Prior to the start  
18 of the examination, Respondent provided an electronic signature on a NCLEX® Examination  
19 Candidate Rules document and/or otherwise agreed to comply with the NCLEX® Examination  
20 Candidate Rules. One of the rules provided that "Cell/mobile/smart phones, pagers or other  
21 electronic devices may not be accessed at all during your examination appointment (**including**  
22 **breaks**)". Respondent violated the examination administration rules by accessing her cellular  
23 phone while on a break during the administration of the examination.

24 8. Respondent's application is subject to denial pursuant to Code section 496 in that on  
25 or about May 24, 2011, Respondent subverted or attempted to subvert the licensing examination,  
26 or the administration of the examination, as set forth in paragraph 7 above, in violation of Code  
27 section 123.

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1 **SECOND CAUSE FOR DENIAL**

2 **(Dishonesty, Fraud or Deceit)**

3 9. Respondent's application is subject to denial pursuant to Code sections 2736 and 480,  
4 subdivision (a)(2), in that on or about May 24, 2011, Respondent committed an act involving  
5 dishonesty, fraud or deceit with the intent to substantially benefit herself, or substantially injure  
6 another, as set forth in paragraph 7 above.

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
9 and that following the hearing, the Board of Registered Nursing issue a decision:

- 10 1. Denying the application of Merin Jibu Kaniamkulam for a registered nurse license;  
11 2. Taking such other and further action as deemed necessary and proper.

12  
13 DATED: December 11, 2012

14 Louise R. Bailey  
15 LOUISE R. BAILEY, M.ED., RN  
16 Executive Officer  
17 Board of Registered Nursing  
18 Department of Consumer Affairs  
19 State of California  
20 Complainant  
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